

Recommendations for the PEI Family Violence Response

December, 2004

Justice Options for Women Who Are Victims of Violence: Phase Four

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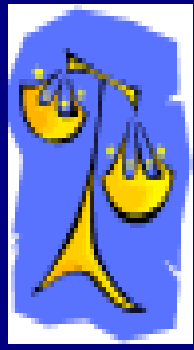


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Executive Summary

Beginning in 1999, the Justice Options for Women Who Are Victims of Violence Project has done research and consultations with survivors of violence, community organizations and government divisions and services to identify perspectives, needs and issues. During that time, the project has facilitated dialogue about how to ensure that justice options in cases of family violence assist in ending and healing from abuse, keeping women safe, and holding offenders accountable in ways that are rehabilitating.

In Phase Four of the project, which began in July 2003, a Planning Group representing community and government was brought together to build on the five years of research and consultation in the development of a family violence court option for PEI. In doing this work, it became clear to the Planning Group that a family violence court is only one component of a broader, more holistic response to family violence in PEI.

Preliminary agreements have been reached about what a Family Violence Response for PEI will look like. The goal of the response will be to improve the quality and effectiveness of family violence interventions with the objectives being to:

- Increase safety for victims, children and families
- Improve access to treatment and support that contributes to ending violence
- Ensure a co-ordinated, timely and effective response, and
- Effectively monitor and enforce protection and court orders.

The PEI Family Violence Response will include more collaborative roles for service providers in a co-ordinated multi-sector team approach to responding to family violence, a specialized family violence court, enhanced support and services for victims and children and enhanced treatment, support and supervision for offenders. Further development of these agreements will continue over the coming months.

To support this continued work, the Planning Group asks that the Province provide support by:

- better resourcing support services for victims and children;
- better resourcing treatment and support services for offenders;
- providing enhanced supervision of family violence treatment and sentences, including supervision of Criminal Code s. 810 orders and of those offenders released on conditions prior to trial;
- developing enhanced collaboration between divisions and services within the Department of Health and Social Services and the Office of the Attorney General, including the development of a joint policy on family violence offender treatment/support.

Definitions

While individuals within organizations may have a common understanding of terms naming violence, the terms are not shared across sectors or organizations. Confusion can result from failure to clarify who is the focus of a process or intervention. For the purposes of the PEI Family Violence Response, the preferred term is Family Violence, recognizing that there are dynamics unique to intimate or spousal relationships within family violence.

Domestic Violence

Some use domestic violence to refer to abuse of spouses in the same residence. Others use it to mean abuse in adult relationships residing in the same residence, which could be spouses or siblings. There is some confusion over this term.

Family Violence

Family violence includes but is not limited to abuse by one partner against another, by a parent against a child, by a child against a parent, between brothers and sisters, or involving grandparents. It is an abuse of power within relationships of family. (PACFVP)

Intimate Partner Abuse

Intimate Partner Abuse describes sexual, physical, emotional or financial abuse against one's current or former spouse, common-law or other intimate partner, including dating violence and same-sex relationships, which constitutes a criminal offence. This term is not in common use.

Spousal Abuse

Spousal abuse is defined as sexual, physical, emotional or financial abuse against one's current or former spouse, common-law or other intimate partner, including dating violence. (AM Policy)

Offender Treatment

Offender treatment referenced in this document includes a holistic response including treatment for family violence, anger, addictions and mental health issues.

Children Exposed to Violence

Children exposed to violence as referenced in this document includes children who are present in a home where there is intimate partner abuse, whether or not they directly witnessed the abuse.

Background

Justice Options for Women Who Are Victims of Violence Projects started in 1999 when some community members and organizations were concerned that restorative justice approaches would be used in cases where women had been victims of violence without consideration of the needs of women and consultation with the community. The Steering Committee for the project said at that time - we need to work on ensuring justice options for women and children before focussing specifically on restorative justice; and, that restorative justice options should not detract from the continuing efforts needed in the justice system. The Phases of the Justice Options for Women Who Are Victims of Violence Projects were built on these concerns.

Phase One asked women who were victims of violence about their perspectives, needs and issues in relation to justice. Many of the concerns identified by the women interviewed were also shared by community advocates, police and justice staff. Women and justice system representatives acknowledged that there is no one answer to understanding and preventing woman abuse and the system alone cannot keep women safe.

Phase Two set out to better understand the problems and benefits of restorative justice approaches for women. Phase Two identified the common goals of justice and restorative processes: to end abuse, keep women safe, and hold offenders accountable; and the additional goals of restorative processes: to aid victims in healing, offenders in habilitation, and communities in restoring balance.

Phase Two resulted in recommendations, including:

- Review and consider the adaptation of the Yukon Domestic Violence Treatment Option for woman abuse in relationships.

Phase Three provided opportunities for women survivors of abuse, community advocates and organizations, and government departments to consider potential models and make recommendations about ways to address woman abuse in the family and criminal law areas which make the links to other services including family court, and reduce the potential for further abuse to women and their children.

Justice Options Phase Four, established a Planning Group to develop a family violence court option for PEI. A literature review was done to assist the Group in it's work and can be found at Appendix A. Four Working Committees - Victim Needs, Children's Needs, Offender Treatment, and Court Process expanded representation, focused on specific needs, and made recommendations to the Planning Group. (see list of participants, Appendix B)

Throughout the course of developing a family violence court option, it became clear to the Planning Group that a family violence court is only one component of a broader, more holistic response to family violence in PEI. Thus, these preliminary recommendations of the Planning Group lead to a broader PEI Family Violence Response, which includes the court option. The

recommendations have been built on five years of research and consultation and resulted in consensus among Planning Group members.

The work of communities and governments in the past 25 years have strengthened many factors necessary for effective intervention. These include, but are not limited to:

- collaborative relationships across sectors, especially front-line
- Attorney General policy, particularly Spousal Abuse Charging Policy and Alternative Measures
- quick response of provincial courts to first appearance and trials
- Victim Services province-wide
- Anderson House and province-wide outreach and support services
- Woman Abuse Policies in most justice services, Income Support and Hospital Emergency
- Premier's Action Committee on Family Violence Prevention and a focus on the needs of children living in situations of family abuse
- Turning Point treatment program for men and the high completion rates for assessment and groups.

There are some barriers to effective intervention that are addressed in the recommendations of the PEI Family Violence Response Process. The barriers include:

- lack of adequate resources for victim support, including community programs for women and children, and provincial Victim Services
- lack of adequate resources for offender treatment programs such as Turning Point, addictions and mental health
- lack of Probation Services mandate to supervise those offenders released on conditions prior to trial or s. 810 orders, which order no contact between abuser and victim, as well as a lack of resources to do so on the rare occasion that courts order such supervision
- less engagement of Health and Social Services system than of the justice system, as partners in addressing spousal abuse, especially Addictions, Mental Health and Child Protection
- lack of protocols for sharing information about offender needs and progress among Departments
- lack of woman abuse protocols in some areas, including Addictions, Mental Health, and Child and Family.

Recommendations for the PEI Family Violence Response (PEI-FVR)

The recommendations of the Justice Options Project Planning Group are based on Guiding Values and Principles (see Appendix C) toward the goal to improve the quality and effectiveness of family violence interventions.

The objectives of the PEI Family Violence Response are to:

- Increase safety for victims, children and families
- Improve access to treatment and support that contributes to ending violence
- Ensure a co-ordinated, timely and effective response, and
- Effectively monitor and enforce protection and court orders.

The Planning Group Recommends:

1. That a Family Violence Court be initiated as one piece of a broad, holistic and regularly evaluated family violence response for PEI.
2. That the Province continue to support the development of this Family Violence Response for PEI, based on the Goals, Objectives, Guiding Principles and Values developed, which incorporates a multi-sector team approach (FVR Team) for decision making about case management and recommendations regarding the response.
3. That the Office of the Attorney General, the Department of Health and Social Services and the Minister Responsible for the Status of Women work together to develop a collaboration plan which will enable a response to family violence that is preventative, holistic and focused on the needs of all family members involved in and affected by the violence.
4. That the Attorney General and Minister of Health and Social Services ensure that representatives of the following divisions and services are active partners with community organizations in the development of the PEI-FVR: Victim Services, Turning Point Program, Probation Services, Crown Attorney's Office, Addictions, Mental Health and Child and Family Services.
5. That a position of Family Violence Response Co-ordinator (FVR Co-ordinator) be created to work with the Justice Options for Women Project to implement the PEI-FVR and to coordinate the PEI-FVR after implementation.
6. That the Office of the Attorney General, the Department of Health and Social Services and the Minister Responsible for the Status of Women continue to work with the Justice Options for Women Project to plan for resources required to support the PEI-FVR.

Treatment/Support for Offenders

7. That an Interdisciplinary Treatment Working Committee with representation from the Office of the Attorney General and the Department of Health and Social Services be created to develop a joint philosophy of treatment with shared strategies and language, to generate ideas about how to expand resources and treatment options for family violence and addiction and/or mental health issues within the province and to make recommendations to ensure specialized resources for treatment and support are made available across the Province.
8. That, based on the recommendations of the Interdisciplinary Treatment Working Committee, a joint policy on family violence offender treatment/support be created by the Department of Health and Social Services and the Office of the Attorney General.
9. That resources which enable the paid facilitation of Turning Point groups be made available.
10. That resources be made available across the Province to enable Probation Services to supervise family violence treatment and sentences, including an expanded role of supervision of Criminal Code s. 810 orders and of those offenders released on conditions prior to trial.

Support for Victims

11. That the Province support the work of Victim Services, Transition House Association and the Outreach Workers financially and within policies, to ensure that specialized services to assist victims to heal from family violence be made available province-wide.
12. That translation is available when needed for support services. These services must be offered by trained translators knowledgeable about court, legal terms and the dynamics of family violence.
13. That safe, private and easily accessible space is available to service providers for meetings with victims.

Support for Children

14. That the Province begin the development, in collaboration with community, of a position of Child Advocate. We further recommend that, until this position is created, children whose parent is charged with a spousal abuse offense have an independent support person, such as a Victim Services worker who is not working directly with the adult victim.

15. That the Province financially support the development and delivery across the province of programs for children exposed to family violence.
16. That the Province, in collaboration with community, develop a parenting program specific to family violence for victims of family violence and extended family members and a mandatory parenting program for abusers, including separate courses for male and female abusers.
17. That a tool enabling all child-serving agencies within the Provincial government to collect data on children exposed to family violence be developed.

Appendix A

Literature Review

While we have included recommendations for a broader family violence response in this report, we began with the idea of developing a family violence court for PEI. Specialized courts are based on the theory of therapeutic jurisprudence where the court is better informed about individual needs and availability of treatment options and tailors dispositions to meet the needs.

What is a Family Violence Court Option?

A Family Violence Court coordinates interventions by knowledgeable professionals to increase early and effective interventions that contribute to victim safety and empowerment, offender accountability and treatment, interrupting the relationship cycle of violence, and breaking the generational cycle of violence.

A Family Violence Court has:

- personnel knowledgeable about the dynamics of family violence
- scheduling that allows early appearance of offenders and monitoring of offenders in treatment
- protocols for information sharing among interveners
- protocols for priority placement in support and treatment programs
- victim support
- pre-court meetings for up-to-date information on victim's, offender's, and children's needs, and assessment of risk
- current and complete information before the court
- dispositions that contribute to safety and rehabilitation
- procedures for monitoring offender compliance

Family Violence Courts have been functioning in Canada and the United States since the early 1990s. While there are different models of Family Violence Courts they all include problem-solving based on thorough information leading to more effective disposition. In Canada there are specialized courts in Winnipeg, Manitoba; Toronto, Ontario; Calgary, Alberta; and Whitehorse, Yukon Territory.

Factors that Contribute to Family Violence Court Effectiveness

The experiences of the past decade have identified factors that contribute to effectiveness of Family Violence Courts. These include:

- guided by values, clear philosophy and measurable objectives
- victim services - immediate access to victim advocates, early referral to social service supports, generic and case-specific information, prompt scheduling for protection orders, and creating safety during court appearances
- judicial monitoring - assigning judges with interest and knowledge, monitoring offenders continuously and through probation post-disposition, exploring new method of judicial monitoring, and dedicating staff and resources for monitoring

- accountability - strong relationships with treatment services including assaultive men's programs and addiction treatment, creativity in monitoring offender's, and using technology to enhance access to information
- coordinated response - strong linkages with a wide range of partners, regular meetings with criminal justice, social service and community partners, and providing court personnel and partners with family violence education and training.¹

In summary, reports highlight:

- broad-based collaboration
- comprehensive victim services
- effective law enforcement procedures
- offender accountability
- high-quality treatment programs
- specialized probation departments
- informed and involved judges
- evaluation²

Why is a Family Violence Court Option Needed?

Violence within relationships is complex and there are dynamics unique to spousal abuse and family violence. Traditional criminal court processes were not set-up to deal with the emotional, financial, and family ties of spousal abuse victims and offenders. For example, the victim may be living with the offender at the time of the court appearance, and most have a parenting relationship regardless of the living arrangements of spouses.

The unique victim-offender relationship requires special consideration of the safety of all parties: victim, offender and children. The safety risks to all increase on separation. Also, the victim may be the key or only witness and the justice system approach to the victim can make the difference as to whether she stays involved in the system, accesses services and cooperates in the prosecution.

Since the mid 1970s there have been many changes in policy, procedure, and programs in justice and social services, as well as community awareness and programs. In the justice system these changes addressed police, corrections, prosecution and victim services policy and program areas. Women's advocates, who opened shelters for safety for abused women and their children, led these changes and challenged communities and systems to respond.

¹ Mazur, Robyn and Aldrich, Liberty. *What Makes A Domestic Violence Court Work*, Judges Journal Number 2, Volume 42, Spring 2003. American Bar Association.

² Clarke, Michelle "Best Practices Review, Second Draft"

Why is a Gender Analysis of Spousal Abuse Needed?

Women and men who are victims of spousal abuse require supportive and effective interventions, and programs. Similarly men and women who are perpetrators of spousal violence need to be held accountable for their behaviour, and have options for rehabilitation. Because there are different experiences for victims and offenders based on gender, a gender analysis can contribute to effective approaches by basing decisions on accurate information about the occurrences and impacts of spousal abuse by gender. Some questions to consider include:

- What are the different rates of offending by gender?
- What are the different rates of victimization by gender?
- What are the different impacts of abuse on victims by gender?
- What are the different impacts on children by gender of the offender / victim?
- Do existing interventions take gender into account? How?
- Are treatment needs/approaches different depending on gender?

Estimates of spousal violence in Canada indicate that women comprise the majority of all victims (85% of 34,000 report to police) while men account for 15%.³ This following quote highlights further statistics from the same report:

During the year 2000 18% of all violent crime reported to the police in a subset of 166 police departments involved spousal violence. . . . In both male and female victims of spousal violence, current spouses are perpetrators of the reported offence, 63% and 66% respectively.

. . . UCR2 (Uniform Crime Reporting) data indicate an overall upward trend of spousal violence between 1995 and 2000 accounting for a 27% increase among female victims and a slightly less notable increase among men.”

What are the Benefits of a Family Violence Court Option?

Family Violence Courts can contribute to more effective and efficient approaches with benefits to children, families, communities, departments and systems.

Costs of family violence in Canada were estimated in 1996 at \$4, 225, 954, 322 when accounting for costs in social services/education (\$ 2, 368,924.297), criminal justice (\$ 871,908,583), labour and employment (\$ 576,764,400), health and medical (\$ 408,357,042) including government, personal and third-party costs.⁴ Economic costs are limited to tangible costs and do not reflect the costs of emotional suffering, deterioration in quality of life and loss of life.

³ Spousal violence estimates are based on Canadian Centre for Justice Statistics, Incident Based Uniform Crime Reporting (UCR2) cited in Knott, Theresa. *Intentional Injury: Family Violence - LFDI Intentional Injury Brief Paper*

⁴ Hankivsky, Olena, and Greaves, Lorraine. “The Costs of Violence: Another piece of the puzzle”, *Vis-a-vis*, Summer 1996, Volume 13, Number 4. Canadian Council on Social Development

Family Violence Courts can support victim safety and offender accountability and change the cycle of relationship violence and the inter-generational nature of violence in the family, thereby contributing to the health and well-being of individuals and families. Further Family Violence Courts can increase the satisfaction of justice and other interveners such as police, probation officers, child protection workers, treatment providers and judges who can become frustrated with the revolving cycle of family violence.

Family Violence Courts can improve effectiveness of interventions by more thorough information sharing and coordinated case management across multi-sector agencies, which focus resources where they can be most effective and reduce overlapping and sometimes contradictory services. In addition to the benefits to victims, children and offenders, this can result in increased satisfaction for staff in treatment and counseling services, and potentially lead to cost-savings over time.

Appendix B

Project Participants

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Appendix C

PEI Family Violence Response (PEI -FVR)

Goal and Objectives

The goal of the PEI-FVR is to improve the quality and effectiveness of family violence interventions.

The objectives are to:

- 1 Increase safety for victims, children and families;
- 2 Improve access to treatment and support that contributes to ending violence;
- 3 Ensure a co-ordinated, timely and effective response; and
- 4 Effectively monitor and enforce protection and court orders.

Values and Guiding Principles

Family Violence:

- is a serious problem involving criminal, social and health issues with short and long term implications to the victims, offenders, their families and society;
- is not an innate response, but a learned behaviour, often generational, that both victims and offenders can unlearn;
- is, in most of its forms, criminal behaviour in Canada; and
- involves a pattern of abusive incidents over time.

Guiding Principles

We believe that:

- Everyone has the right to live a life free of violence and abuse.
- Victims of Family Violence need resources for safety, basic necessities and emotional support.
- Children need safety from abuse for security and growth and intervention for children increases the likelihood of breaking the cycle of becoming a victim of abuse or an abuse offender.
- Offenders must be held accountable and supported with treatment to take responsibility for their actions.
- Immediate and extended families of victims and offenders need support to deal with all aspects of family violence.

Values

To minimize the impact on victims and children, we further believe that responses to family violence must incorporate the following values.

Human Values

- Respect
- Dignity of all parties
- Respect for diversity
- Safety and security

Program Values

- empowerment of victims and families
- protection of children and elevation of their needs
- support of offenders to be accountable for their actions
- prevention of violence

Operational Values

- multi-disciplinary collaboration
- accountability of service providers
- facilitation of a victim's ability to exercise choices and make informed decisions
- effective communication
- accessibility of services
- appropriate and respectful sharing of information about offenders, victims and families among service providers
- accurate and timely interventions
- flexibility in meeting unique needs and respecting individual circumstances